

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 89-02
(September 25, 1989)

**Propriety of Amicus Curiae Briefs
Filed by Judges Association**

Issue

Is it proper for an association of lower court judges to request leave of the Supreme Court to file an amicus curiae brief when the issue involved is the separation of powers doctrine?

Answer: Yes.

Discussion

Judges, either individually or through their association of judges, should be mindful of appearances to the public in promoting public confidence in the integrity and impartiality of the Judiciary. Canon 2 admonishes judges to conduct themselves in a manner that meets those ends. Moreover, Canon 3A(6) requires a judge to abstain from public comment about a pending proceeding in any court.

We do not believe an amicus curiae brief addressed to a general legal proposition, judicial policy, constitutional or statutory interpretation for "public comment" is of the type prohibited by the code. Indeed, Canon 4 specifically authorizes judges to participate in activities "concerning the law, the legal system, and the administration of justice," and judges may appear at public hearings concerning such matters. We see no impropriety in the filing of an amicus curiae brief on the issue involved in this question presented for our consideration.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 2, 3A(6) and 4 (1985).

Revision History

This opinion was originally issued as Opinion 89-03 on the date shown at the top of the page. In December 1991, it was republished in a new format without substantive changes, and renumbered to eliminate a discrepancy in the numbering system.